

### **Compatibility Determination**

**Use:** Issue the City of Elk Grove (City) a right-of-way easement to expand the existing roadway along Elk Grove and Franklin Boulevards for the purpose of public safety.

**Refuge Name:** Stone Lakes National Wildlife Refuge

### **Establishing and Acquisition Authority:**

Stone Lakes National Wildlife Refuge (NWR) was established in 1994 under the following authorities: Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3901(b)), Fish and Wildlife Act of 1956 (16 U.S.C. 742f(a)(4)), Migratory Bird Conservation Act (16 U.S.C. 715d), and Endangered Species Act of 1973 (16 U.S.C. 1534). Additional acquisition authorities can be found in the funding sources used to acquire land. These sources include: the California Environmental License Plate Fund, the Cigarette and Tobacco Product Surtax (California Proposition 99, 1988), the North American Wetland Conservation Act (16 U.S.C. 4401-4412), the Land and Water Conservation Fund (16 USC 4601 - 4601-11), the Sacramento County Environmental Mitigation Grant/Packard Foundation, the Central Valley Improvement Act (16 U.S.C 695d-695j), the National Fish and Wildlife Fund (16 U.S.C. 3701-3709), the Trust for Public Land Grant/Packard Foundation, the City of Sacramento, and CalFed Bay Delta Program.

### **Refuge Purpose(s):**

Stone Lakes NWR purposes include the following:

“... for the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions ...” (Emergency Wetlands Resources Act of 1986)

“... for the development, advancement, management, conservation, and protection of fish and wildlife resources ...” (Fish and Wildlife Act of 1956)

“... for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude ...” (Fish and Wildlife Act of 1956)

“... for use as an inviolate sanctuary, or for any other management purpose, for migratory birds.’ (Migratory Bird Conservation Act of 1929)

“... to conserve (A) fish or wildlife which are listed as endangered species or threatened species .... or (B) plants ...” (Endangered Species Act of 1973)

**National Wildlife Refuge System Mission:** “The mission of the National Wildlife Refuge System (System) is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans” (National Wildlife Refuge System Administration Act of 1966, as amended [16 U.S.C. 668dd-668ee]).

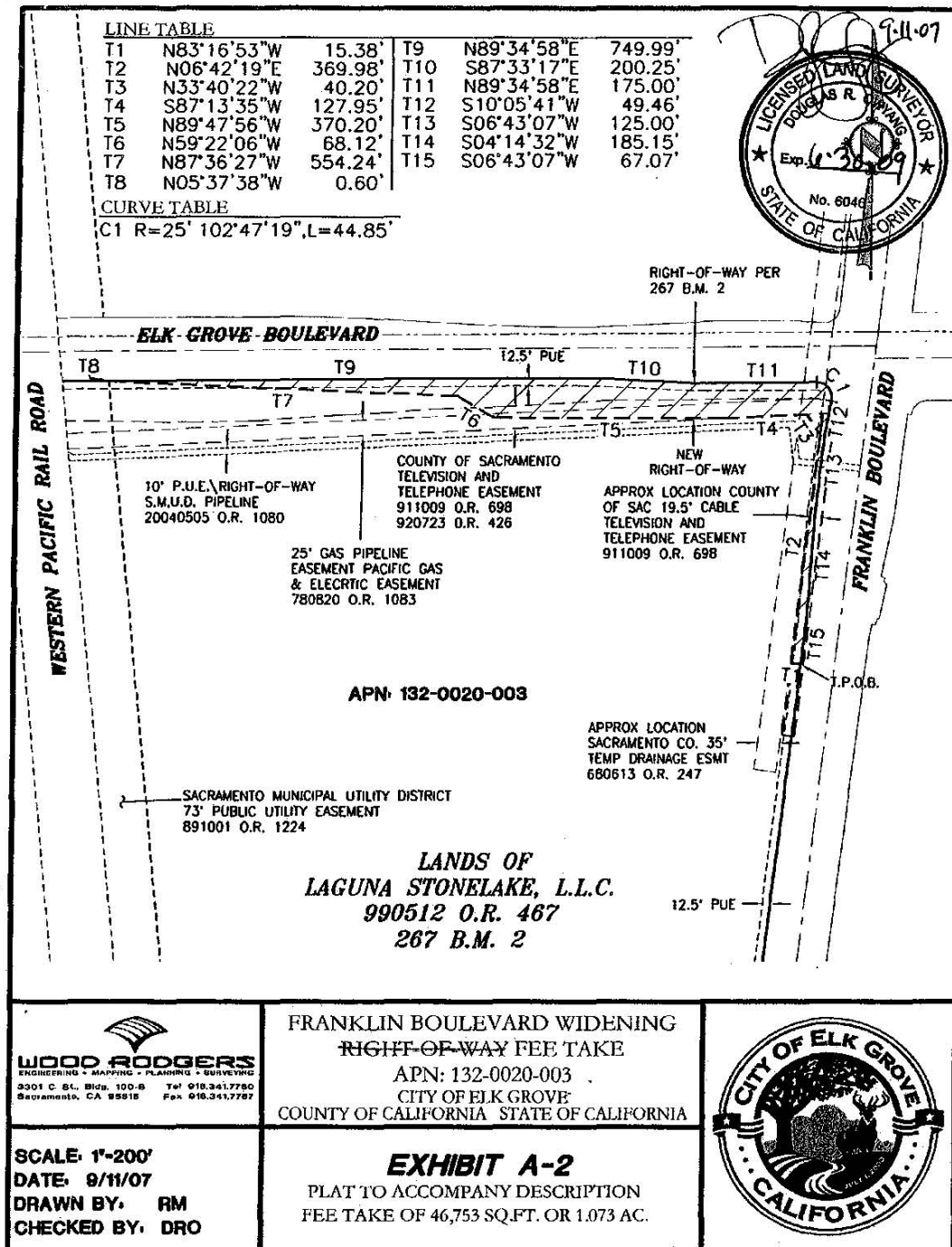
**Description of Use:**

The U.S. Fish and Wildlife Service (Service) proposes to issue a right-of-way easement to the City of Elk Grove (City) for the expansion of the roadway along Elk Grove and Franklin Blvds for the purpose of public safety. The project is located in a portion of Township 6 N, Range 5 E, MDB&M, and Section 5. The Service will provide the City a right-of-way for a period of ninety-nine years for the section of land currently adjacent and south of Elk Grove Blvd and Franklin Blvd approximately 20-40’ wide totaling 1.073 acres.

Figure 1. Map of the Right-of-Way Easement Location.



Figure 2. Plat Drawing of Legal Description of the Right-of-Way Easement.



**Anticipated Impacts of the Use:**

This proposed use would not negatively impact the purposes of Stone Lakes NWR, or the mission of the National Wildlife Refuge System, or impact other existing or potential wildlife-dependent recreational uses. No cumulative or long-term effects are anticipated from the proposed activity. Mitigation for impacts to giant garter snake (0.02 acres) has been completed. Reimbursement for the conservation easement and cost of restoring 1.073 acres of grassland habitat will be provided by the City upon the completion of the right-of-way easement.

**Public Review and Comment:**

Meetings have occurred beginning in 2004 between Refuge staff, the Fish and Wildlife Office staff, consulting firms (PMC) and the City of Elk Grove staff. Public comments were solicited through the California Environmental Quality Act (CEQA) process in 2007. Local tribes were consulted regarding cultural resources within the project area in 2004. A copy of this compatibility determination will be posted on the Stone Lakes NWR website for 14 calendar days.

**Determination: (Check One Below)**

\_\_\_\_\_ Use is not compatible                        X   Use is compatible, with Stipulations

**Stipulations Necessary to Ensure Compatibility:**

- The City will comply with state and federal environmental regulatory stipulations.
- The City will compensate the Service at the current appraised fair market value of 1.073 acres for the existing conservation easement. The Service will issue the City a right-of-way easement for 1.073 acres. The Refuge will issue the City a Special Use Permit to establish a 31,353 square foot temporary easement to conduct construction activities for completing the new turning lane.
- The City will construct a five strand barbwire fence to the Refuge Manager's specifications along the southern and western boundary of this right-of-way easement established near the east side of the rail road and tying in with the Laguna south drainage channel structure.
- The City will provide and erect a Stone Lakes National Wildlife Refuge sign to Service specifications in a suitable location determined by the Refuge Manager.

**Justification:**

The City solicited public comments through the California Environmental Quality Act (CEQA) process in 2007 and revised the original scope of the project area. The City has mitigated for anticipated impacts to endangered species and will provide the Refuge the resources for restoring 1.073 acres of grassland habitat; a new boundary fence along the right-of-way; and a new sign near the site. The project necessitated a 404 permit and Section 7 consultation which concluded that the project was likely to affect the giant garter snake through permanent loss of 0.20 acres of habitat and through temporary loss of 0.08 acres. The project is not located in proposed or designated critical habitat for any federally-listed species. The purchase of credits in a Service approved giant garter snake preserve was completed and the City has agreed to all other conditions for restoring temporary impacts and monitoring as described in the letter from the Service to the U.S. Army Corps of Engineers (81420-2008-F-0955-1. The City also completed the section 106 National Historic Preservation Act assessment, and found no indication of cultural resources in the project area.

The City has purchased the fee title for 1.073 acres from the property owner and will compensate the Service for the overlying conservation easement. This right-of-way easement complies with Service policy (340 FW 3) and regulations promulgated in 50 CFR, Parts 26 and 29 for granting the City permission to construct and maintain the existing roads known as Elk Grove Boulevard, and Franklin Boulevard, along the northeast boundary of the Wetland Preserve Unit for a period of ninety-nine years.

**Mandatory Re-evaluation Date (provide month and year):**

\_\_\_\_\_ Mandatory 15 year Re-evaluation Date (for priority uses)

\_\_\_\_\_ Mandatory 10 year Re-evaluation (for all uses other than priority public uses)

**NEPA Compliance for Refuge Use Decision (check one below):**

\_\_\_\_\_ Categorical Exclusion without Environmental Action Statement

  X   Categorical Exclusion and Environmental Action Statement

\_\_\_\_\_ Environmental Assessment and Finding of No Significant Impact

\_\_\_\_\_ Environmental Impact Statement and Record of Decision

**Documents & Literature Cited**

City of Elk Grove. *Franklin Boulevard/Elk Grove Boulevard Intersection Widening and Bus Turnouts Project*. November 2007.

Wood Rodgers. Franklin Boulevard Widening – Elk Grove Boulevard/Franklin Boulevard Intersection Improvements: Supplemental Traffic Operations Analysis. April 2007.

PMC. Letters to Tribal Contacts and the Native American Heritage Commission. September 2004.

USFWS. 2008 Section 7 Consultation for the Franklin Road Widening Project (Corps File Number 200500221), Sacramento county, California, for the Programmatic Consultation for U.S. Army Corps of Engineers 404 Permitted Projects with Relatively Small Effects on the Giant Garter Snake (1-1-F-97-149). File number 81420-2008-F-0955-1 Sacramento Fish & Wildlife Office, Sacramento California.

USFWS. 2004. Stone Lakes National Wildlife Refuge Draft Comprehensive Conservation Plan and Environmental Assessment. CA/NV Refuge Planning Office, Sacramento, California.

Code of Federal Regulations Title 50. Federal Registry 2009

**Refuge Determination**

Refuge Manager/

Project Leader

Approval:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**Concurrence**

Refuge Supervisor:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Regional Chief,  
National Wildlife

Refuge System:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)